

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Fontem US, LLC,

Petitioner,

v.

U.S. Food and Drug Administration,

Respondent.

No. 22-1076

**PETITIONER’S UNOPPOSED MOTION
TO EXTEND PROCEDURAL MOTIONS DEADLINE**

Petitioner Fontem US, LLC (“Fontem”) hereby moves for a 9-day extension of the current deadline to file procedural motions from June 8, 2022, up to and including June 17, 2022. Counsel for Fontem has consulted with counsel for Respondent U.S. Food and Drug Administration (“FDA”), who represented that FDA does not oppose this motion.

The Court has discretion to extend the time prescribed for a party to perform any act “for good cause.” Fed. R. App. 26(b). In support of this motion, Fontem states as follows:

1. Fontem filed a petition for review in this Court on May 6, 2022, challenging an order issued by FDA that denied certain of Fontem’s products.
2. On May 9, 2022, the Court entered a scheduling order setting the deadline for the filing of procedural motions, if any, as June 8, 2022.

3. Good cause exists for granting this motion under Circuit Rule 27(h) and extending the procedural motions deadline by nine days. Fontem anticipates seeking a judicial stay of the agency's denial order in this case. However, Fontem is filing a request with the agency for supervisory review, *see* 21 C.F.R. § 10.75, on June 6, 2022, and is hopeful that a judicial stay may become unnecessary as a result of that filing and anticipated subsequent discussions with the agency. A brief extension of the procedural motions deadline by nine days will not prejudice FDA.

Accordingly, Fontem respectfully requests that the Court grant an extension of the procedural motions deadline up to and including June 17, 2022.

Dated: June 3, 2022

Respectfully submitted,

/s/ Philip J. Perry

Philip J. Perry

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), I hereby certify that the foregoing motion complies with the type-volume limitations in Federal Rule of Appellate Procedure 27(d)(2)(A). According to the word count feature of Microsoft Word, the motion contains 262 words, excluding the exempted parts under Federal Rule of Appellate Procedure 32(f). This motion has been prepared using Microsoft Word 2016 in 14-point Times New Roman font.

/s/ Philip J. Perry

Philip J. Perry

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I filed the foregoing motion via the Court's CM/ECF system, which will provide electronic notice to all counsel of record.

/s/ Philip J. Perry

Philip J. Perry